IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24889 of 2004

Between:

V.S.Reddy S/o.Damodar Reddy Hindu
Wanaparthy Bus Depot, Mahabubnagar Dist.

..... PETITIONER

AND

1 The Depot Manager APSRTC.,

Wanaparthy Bus Depot,

Mahabubnagar Dist.

2 The Depot Manager APSRTC.,

Gadwal Bus Depot,

Mahabubnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondent in deferring the petitioners annual increment for a period of 4 years (two years with cumulative and two years without cumulative) besides treating the suspension period as not on duty as bad, arbitrary, illegal, unjust and unreasonable and violative of principles of natural justice by setting aside the Addendum No 02/95(7)/99-GDL dt 9-9-1999 and consequently direct the respondents to add the deferred increments to the petitioner's pay scale and pay the arrears and pass such other order or orders.

Counsel for the Petitioner :Mr.P.VENKATESWAR RAO

Counsel for the Respondents: Mr.P.VINAYAKA SWAMY,
S.C. for A.P.S.R.T.C.

The Court at the stage of admission made the following :

ORDER:

Deferring the petitioner's annual increment for a period of four years (two years with cumulative effect and two years without cumulative effect) besides treating the suspension period as 'not on duty' as arbitrary and illegal, the present writ petition is filed.

For certain irregularities, a charge sheet dated 01-02-1999 was issued, for which an explanation was given. Not satisfied with the explanation, a regular departmental enquiry was ordered. After conducting enquiry, the disciplinary authorities issued a show cause notice and ordered for punishment. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner contended that in the show cause notice, the proposed punishment is mentioned as a period of two years, which shall have no effect on future increments, besides treating the period of suspension as not on duty. But at the time of passing the order, in the first instance, by impugned proceedings dated 04-08-1999, the suspension period was not treated as not on duty and thereafter the office order dated 09-09-1999 issued Addendum saying that his annual increment next falls due deferred for a period of two years, which shall have effect on postponing his future increments. Therefore, the punishment ordered is not in convergence with the show cause notice. Hence, he prays to set aside the same.

The learned standing counsel appearing for the respondents contends that due to mistake, the punishment was imposed. Imposing a major penalty confer punishment as proposed in the show cause notice and hence the punishment as mentioned in the show cause notice may be imposed.

Since the punishment imposed is higher than what is proposed in the show cause notice and on that ground alone, the proceedings have to be set aside and it is a fit case to remit the same to the disciplinary authority for passing appropriate orders.

But, at the same time, the counsel for the petitioner also agreed for the proposed punishment, as mentioned in the show cause notice. The incident is alleged to have been taken place on 01-02-1999, and five years have been elapsed. There is no need to remit the case to the disciplinary authority for appropriate decision. Since the punishment is over and above the proposed punishment as mentioned in the show cause notice dated
19-04-1999, the same should have to be confirmed. Therefore, the punishment imposed by the disciplinary authority is modified to that of the period of two years. Deferment of increment for two years which shall have no effect on his future increments besides treating the period of suspension as not on duty. By virtue of this order, the petitioner is not entitled for any monitory benefit from the date of impugned proceedings till the date of this order. However, he is entitled for the periodical increments on the notional calculation.

With the above observations, the writ petition is disposed of.

No costs.

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K.C.BHANU, J.

Dt: 01-03-2005.

Rns.
To

1 The Depot Manager APSRTC.,

Wanaparthy Bus Depot,

2 The Depot Manager APSRTC.,

Gadwal Bus Depot,

3 Two CD copies.

4 1 CC to MR.VENKATESWAR RAO